

REFERENCE TITLE: arrest; DNA testing

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1378

Introduced by
Senator Brotherton

AN ACT

AMENDING SECTIONS 13-610 AND 41-1750, ARIZONA REVISED STATUTES; RELATING TO
DEOXYRIBONUCLEIC ACID TESTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-610, Arizona Revised Statutes, is amended to
3 read:

4 13-610. Deoxyribonucleic acid testing: exception

5 A. Within thirty days after a person is sentenced to the state
6 department of corrections or a person who is accepted under the interstate
7 compact for the supervision of parolees and probationers arrives in this
8 state, the state department of corrections shall secure a sufficient sample
9 of blood or other bodily substances for deoxyribonucleic acid testing and
10 extraction from the person if the person was convicted of an offense listed
11 in this section and was sentenced to a term of imprisonment or was convicted
12 of any offense that was committed in another jurisdiction that if committed
13 in this state would be a violation of any offense listed in this section and
14 the person is under the supervision of the state department of
15 corrections. The state department of corrections shall transmit the sample
16 to the department of public safety.

17 B. Within thirty days after a person is placed on probation and
18 sentenced to a term of incarceration in a county jail detention facility or
19 is detained in a county juvenile detention facility, the county detention
20 facility shall secure a sufficient sample of blood or other bodily substances
21 for deoxyribonucleic acid testing and extraction from the person if the
22 person was convicted of or adjudicated delinquent for an offense listed in
23 this section. The county detention facility shall transmit the sample to the
24 department of public safety.

25 C. Within thirty days after a person is convicted and placed on
26 probation without a term of incarceration or adjudicated delinquent and
27 placed on probation, the county probation department shall secure a
28 sufficient sample of blood or other bodily substances for deoxyribonucleic
29 acid testing and extraction from the person if the person was convicted of or
30 adjudicated delinquent for an offense listed in this section. The county
31 probation department shall transmit the sample to the department of public
32 safety.

33 D. Within thirty days after the arrival of a person who is accepted
34 under the interstate compact for the supervision of parolees and probationers
35 and who is under the supervision of a county probation department, the county
36 probation department shall secure a sufficient sample of blood or other
37 bodily substances for deoxyribonucleic acid testing and extraction from the
38 person if the person was convicted of an offense that was committed in
39 another jurisdiction that if committed in this state would be a violation of
40 any offense listed in this section and was sentenced to a term of
41 probation. The county probation department shall transmit the sample to the
42 department of public safety.

43 E. Within thirty days after a juvenile is committed to the department
44 of juvenile corrections, the department of juvenile corrections shall secure
45 a sufficient sample of blood or other bodily substances for deoxyribonucleic

1 acid testing and extraction from the youth if the youth was adjudicated
2 delinquent for an offense listed in this section and was committed to a
3 secure care facility. The department of juvenile corrections shall transmit
4 the sample to the department of public safety.

5 F. Within thirty days after the arrival in this state of a juvenile
6 who is accepted by the department of juvenile corrections pursuant to the
7 interstate compact on juveniles and who was adjudicated for an offense that
8 was committed in another jurisdiction that if committed in this state would
9 be a violation of any offense listed in this section, the compact
10 administrator shall request that the sending state impose as a condition of
11 supervision that the juvenile submit a sufficient sample of blood or other
12 bodily substances for deoxyribonucleic acid testing. If the sending state
13 does not impose that condition, the department of juvenile corrections shall
14 request a sufficient sample of blood or other bodily substances for
15 deoxyribonucleic acid testing within thirty days after the juvenile's arrival
16 in this state. The department of juvenile corrections shall transmit the
17 sample to the department of public safety.

18 G. Notwithstanding subsections A through F of this section, the agency
19 that is responsible for securing a sample pursuant to this section shall not
20 secure the sample if the scientific criminal analysis section of the
21 department of public safety has previously received and maintains:

22 1. A sample sufficient for deoxyribonucleic acid testing.

23 2. A PERSON'S DEOXYRIBONUCLEIC ACID TEST RESULTS FROM AN ARRESTING
24 AUTHORITY PURSUANT TO SECTION 41-1750, SUBSECTION U.

25 H. The department of public safety shall do all of the following:

26 1. Conduct or oversee through mutual agreement an analysis of the
27 samples that it receives pursuant to subsection N, ~~paragraphs 1, 2 and 3 of~~
28 ~~this section and subsection 0, paragraphs 1 and 2~~ of this section.

29 ~~2. Store the samples it receives pursuant to subsection N, paragraphs~~
30 ~~4 and 5 of this section and subsection 0, paragraphs 3 and 4 of this section~~
31 ~~and conduct an analysis of the samples on receipt of the funding necessary~~
32 ~~for this purpose.~~

33 ~~3.~~ 2. Make and maintain a report of the results of each
34 deoxyribonucleic acid analysis.

35 ~~4.~~ 3. Maintain samples of blood and other bodily substances for at
36 least thirty-five years.

37 I. Any sample and the result of any test that is obtained pursuant to
38 this section may be used only as follows:

39 1. For law enforcement identification purposes.

40 2. In a proceeding in a criminal prosecution or juvenile adjudication.

41 3. In a proceeding under title 36, chapter 37.

42 J. If the conviction of a person who is subject to this section is
43 overturned on appeal or postconviction relief and a final mandate has been
44 issued, on petition of the person to the superior court in the county in
45 which the conviction occurred, the court shall order that the person's

1 deoxyribonucleic acid profile resulting from that conviction be expunged from
2 the Arizona deoxyribonucleic acid identification system established by
3 section 41-2418 unless the person has been convicted of another offense that
4 would require the person to submit to deoxyribonucleic acid testing pursuant
5 to this section.

6 K. If the conviction of a person who is subject to this section is
7 classified as a misdemeanor pursuant to section 13-702, on petition of the
8 person to the superior court in the county in which the conviction occurred,
9 the court shall order that the person's deoxyribonucleic acid profile
10 resulting from that conviction be expunged from the Arizona deoxyribonucleic
11 acid identification system unless the person has been convicted of another
12 offense that would require the person to submit to deoxyribonucleic acid
13 testing pursuant to this section.

14 ~~L. A person who was convicted or adjudicated delinquent before the~~
15 ~~applicable date provided in this section for any offense for which a~~
16 ~~sufficient sample of blood or other bodily substance for deoxyribonucleic~~
17 ~~acid testing and extraction is required to be secured shall have a sample~~
18 ~~secured if the person is in the custody of the state department of~~
19 ~~corrections, the department of juvenile corrections or a county jail~~
20 ~~detention facility or is under the supervision of a probation department on~~
21 ~~the applicable date listed in subsection N or O of this section. The sample~~
22 ~~shall be secured within one hundred eighty days after the applicable date~~
23 ~~listed in subsection N or O of this section.~~

24 L. BEGINNING JANUARY 1, 2007, IF A PERSON IS CHARGED WITH ANY FELONY
25 OFFENSE, THE ARRESTING AUTHORITY SHALL SECURE A SUFFICIENT SAMPLE OF BLOOD OR
26 OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING AND EXTRACTION FROM
27 THE PERSON. BEGINNING JANUARY 1, 2008, IF A PERSON IS ARRESTED FOR ANY
28 OFFENSE, THE ARRESTING AUTHORITY SHALL SECURE A SUFFICIENT SAMPLE OF BLOOD OR
29 OTHER BODILY SUBSTANCES FOR DEOXYRIBONUCLEIC ACID TESTING AND EXTRACTION FROM
30 THE PERSON. THE ARRESTING AUTHORITY SHALL TRANSMIT THE SAMPLE TO THE
31 DEPARTMENT OF PUBLIC SAFETY.

32 M. If any sample that is submitted to the department of public safety
33 under this section is found to be unacceptable for analysis and use or cannot
34 be used by the department, the department shall require that another sample
35 of blood or other bodily substances be secured pursuant to this section.

36 N. This section applies to persons who are:

37 1. ~~Convicted of the following offenses:~~

38 ~~1. A violation of or an attempt to violate any offense in chapter 11~~
39 ~~of this title, any felony offense in chapter 14 or 35.1 of this title or~~
40 ~~section 13-1507, 13-1508 or 13-3608.~~

41 ~~2. Any offense for which a person is required to register pursuant to~~
42 ~~section 13-3821.~~

43 ~~3. Any offense involving the discharge, use or threatening exhibition~~
44 ~~of a deadly weapon or dangerous instrument or the intentional or knowing~~
45 ~~infliction of serious physical injury as provided in section 13-604.~~

1 ~~4. A violation of any felony offense in chapter 34 of this title.~~
2 ~~5. Beginning on January 1, 2004,~~ a violation of any felony offense.
3 ~~0. This section applies to persons who are~~
4 2. Adjudicated delinquent for the following offenses:
5 ~~1-~~ (a) A violation or an attempt to violate any offense in chapter 11
6 of this title, any felony offense in chapter 14 or 35.1 of this title or
7 section 13-1507, 13-1508 or 13-3608.
8 ~~2-~~ (b) Any offense for which a person is required to register
9 pursuant to section 13-3821.
10 ~~3-~~ (c) A violation of any felony offense in chapter 34 of this title
11 that may be prosecuted pursuant to section 13-501, subsection B, paragraph 2.
12 ~~4. Beginning on January 1, 2004,~~ A violation of any felony
13 offense that is listed in section 13-501.
14 Sec. 2. Section 41-1750, Arizona Revised Statutes, is amended to read:
15 41-1750. Central state repository; department of public safety;
16 duties; funds; accounts; definitions
17 A. Notwithstanding section 41-2205, the department is responsible for
18 the effective operation of the central state repository in order to collect,
19 store and disseminate complete and accurate Arizona criminal history records
20 and related criminal justice information. The department shall:
21 1. Procure from all criminal justice agencies in this state accurate
22 and complete personal identification data, fingerprints, charges, process
23 control numbers and dispositions and such other information as may be
24 pertinent to all persons who have been charged with, arrested for, convicted
25 of or summoned to court as a criminal defendant for a felony offense or an
26 offense involving domestic violence as defined in section 13-3601 or a
27 violation of title 13, chapter 14 or title 28, chapter 4.
28 2. Collect information concerning the number and nature of offenses
29 known to have been committed in this state and of the legal steps taken in
30 connection with these offenses, such other information that is useful in the
31 study of crime and in the administration of criminal justice and all other
32 information deemed necessary to operate the statewide uniform crime reporting
33 program and to cooperate with the federal government uniform crime reporting
34 program.
35 3. Collect information concerning criminal offenses that manifest
36 evidence of prejudice based on race, color, religion, national origin, sexual
37 orientation, gender or disability.
38 4. Cooperate with the central state repositories in other states and
39 with the appropriate agency of the federal government in the exchange of
40 information pertinent to violators of the law.
41 5. Ensure the rapid exchange of information concerning the commission
42 of crime and the detection of violators of the law among the criminal justice
43 agencies of other states and of the federal government.

1 6. Furnish assistance to peace officers throughout this state in crime
2 scene investigation for the detection of latent fingerprints and in the
3 comparison of latent fingerprints.

4 7. Conduct periodic operational audits of the central state repository
5 and of a representative sample of other agencies that contribute records to
6 or receive criminal justice information from the central state repository or
7 through the Arizona criminal justice information system.

8 8. Establish and enforce the necessary physical and system safeguards
9 to ensure that the criminal justice information maintained and disseminated
10 by the central state repository or through the Arizona criminal justice
11 information system is appropriately protected from unauthorized inquiry,
12 modification, destruction or dissemination as required by this section.

13 9. Aid and encourage coordination and cooperation among criminal
14 justice agencies through the statewide and interstate exchange of criminal
15 justice information.

16 10. Provide training and proficiency testing on the use of criminal
17 justice information to agencies receiving information from the central state
18 repository or through the Arizona criminal justice information system.

19 11. Operate and maintain the Arizona automated fingerprint
20 identification system established pursuant to section 41-2411.

21 12. Provide criminal history record information to the fingerprinting
22 division for the purpose of screening applicants for fingerprint clearance
23 cards.

24 B. The director may establish guidelines for the submission and
25 retention of criminal justice information as deemed useful for the study or
26 prevention of crime and for the administration of criminal justice.

27 C. The chief officers of criminal justice agencies of this state or
28 its political subdivisions shall provide to the central state repository
29 fingerprints, **DEOXYRIBONUCLEIC ACID TEST RESULTS** and information concerning
30 personal identification data, descriptions, crimes for which persons are
31 arrested, process control numbers and dispositions and such other information
32 as may be pertinent to all persons who have been charged with, arrested for,
33 convicted of or summoned to court as criminal defendants for felony offenses
34 or offenses involving domestic violence as defined in section 13-3601 or
35 violations of title 13, chapter 14 or title 28, chapter 4 that have occurred
36 in this state.

37 D. The chief officers of law enforcement agencies of this state or its
38 political subdivisions shall provide to the central state repository such
39 information as necessary to operate the statewide uniform crime reporting
40 program and to cooperate with the federal government uniform crime reporting
41 program.

42 E. The chief officers of criminal justice agencies of this state or
43 its political subdivisions shall comply with the training and proficiency
44 testing guidelines as required by the department to comply with the federal
45 national crime information center mandates.

1 F. The chief officers of criminal justice agencies of this state or
2 its political subdivisions also shall provide to the criminal identification
3 section information concerning crimes that manifest evidence of prejudice
4 based on race, color, religion, national origin, sexual orientation, gender
5 or disability.

6 G. The director shall authorize the exchange of criminal justice
7 information between the central state repository, or through the Arizona
8 criminal justice information system, whether directly or through any
9 intermediary, only as follows:

10 1. With criminal justice agencies of the federal government, Indian
11 tribes, this state or its political subdivisions and other states, on request
12 by the chief officers of such agencies or their designated representatives,
13 specifically for the purposes of the administration of criminal justice and
14 for evaluating the fitness of current and prospective criminal justice
15 employees.

16 2. With any noncriminal justice agency pursuant to a statute,
17 ordinance or executive order that specifically authorizes the noncriminal
18 justice agency to receive criminal history record information for the purpose
19 of evaluating the fitness of current or prospective licensees, employees,
20 contract employees or volunteers, on submission of the subject's fingerprints
21 and the prescribed fee. Each statute, ordinance, or executive order that
22 authorizes noncriminal justice agencies to receive criminal history record
23 information for these purposes shall identify the specific categories of
24 licensees, employees, contract employees or volunteers, and shall require
25 that fingerprints of the specified individuals be submitted in conjunction
26 with such requests for criminal history record information.

27 3. With the board of fingerprinting for the purpose of conducting good
28 cause exceptions pursuant to section 41-619.55.

29 4. With any individual for any lawful purpose on submission of the
30 subject of record's fingerprints and the prescribed fee.

31 5. With the governor, if the governor elects to become actively
32 involved in the investigation of criminal activity or the administration of
33 criminal justice in accordance with the governor's constitutional duty to
34 ensure that the laws are faithfully executed or as needed to carry out the
35 other responsibilities of the governor's office.

36 6. With regional computer centers that maintain authorized
37 computer-to-computer interfaces with the department, that are criminal
38 justice agencies or under the management control of a criminal justice agency
39 and that are established by a statute, ordinance or executive order to
40 provide automated data processing services to criminal justice agencies
41 specifically for the purposes of the administration of criminal justice or
42 evaluating the fitness of regional computer center employees who have access
43 to the Arizona criminal justice information system and the national crime
44 information center system.

7. With an individual who asserts a belief that criminal history record information relating to the individual is maintained by an agency or in an information system in this state that is subject to this section. On submission of fingerprints, the individual may review this information for the purpose of determining its accuracy and completeness by making application to the agency operating the system. Rules adopted under this section shall include provisions for administrative review and necessary correction of any inaccurate or incomplete information. The review and challenge process authorized by this paragraph is limited to criminal history record information.

8. With individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement if the agreement specifically authorizes access to data, limits the use of data to purposes for which given and ensures the security and confidentiality of the data consistent with ~~the provisions of~~ this section.

9. With individuals and agencies for the express purpose of research, evaluative or statistical activities pursuant to an agreement with a criminal justice agency if the agreement specifically authorizes access to data, limits the use of data to research, evaluative or statistical purposes and ensures the confidentiality and security of the data consistent with this section.

10. With the auditor general for audit purposes.

11. With central state repositories of other states for noncriminal justice purposes for dissemination in accordance with the laws of those states.

12. On submission of the fingerprint card, with the department of economic security to provide criminal history record information on prospective adoptive parents for the purpose of conducting the preadoption certification investigation under title 8, chapter 1, article 1 if the department of economic security is conducting the investigation, or with an agency or a person appointed by the court, if the agency or person is conducting the investigation. Information received under this paragraph shall only be used for the purposes of the preadoption certification investigation.

13. With the department of economic security and the superior court for the purpose of evaluating the fitness of custodians or prospective custodians of juveniles, including parents, relatives and prospective guardians. Information received under this paragraph shall only be used for the purposes of that evaluation. The information shall be provided on submission of either:

(a) The fingerprint card.

(b) The name, date of birth and social security number of the person.

14. On submission of a fingerprint card, provide criminal history record information to the superior court for the purpose of evaluating the

1 fitness of investigators appointed under section 14-5303 or 14-5407, or
2 guardians appointed under section 14-5206.

3 15. With the supreme court to provide criminal history record
4 information on prospective fiduciaries pursuant to section 14-5651.

5 16. With the department of juvenile corrections to provide criminal
6 history record information pursuant to section 41-2814.

7 17. On submission of the fingerprint card, provide criminal history
8 record information to the Arizona peace officer standards and training board
9 or a board certified law enforcement academy to evaluate the fitness of
10 prospective cadets.

11 18. With the internet sex offender web site database established
12 pursuant to section 13-3827.

13 19. With licensees of the United States nuclear regulatory commission
14 for the purpose of determining whether an individual should be granted
15 unescorted access to the protected area of a commercial nuclear generating
16 station on submission of the subject of record's fingerprints and the
17 prescribed fee.

18 20. With the state board of education for the purpose of evaluating the
19 fitness of a certificated teacher or administrator or an applicant for a
20 teaching or an administrative certificate provided that the state board of
21 education or its employees or agents have reasonable suspicion that the
22 certificated person engaged in conduct that would be a criminal violation of
23 the laws of this state or was involved in immoral or unprofessional conduct
24 or that the applicant engaged in conduct that would warrant disciplinary
25 action if the applicant were certificated at the time of the alleged conduct.
26 The information shall be provided on the submission of either:

27 (a) The fingerprint card.

28 (b) The name, date of birth and social security number of the person.

29 H. The director shall adopt rules necessary to execute ~~the provisions~~
30 ~~of~~ this section.

31 I. The director, in the manner prescribed by law, shall remove and
32 destroy records that the director determines are no longer of value in the
33 detection or prevention of crime.

34 J. The director shall establish a fee in an amount necessary to cover
35 the cost of federal noncriminal justice fingerprint processing for criminal
36 history record information checks that are authorized by law for noncriminal
37 justice employment, licensing or other lawful purposes. An additional fee
38 may be charged by the department for state noncriminal justice fingerprint
39 processing. Fees submitted to the department for state noncriminal justice
40 fingerprint processing are not refundable.

41 K. The director shall establish a fee in an amount necessary to cover
42 the cost of processing copies of department reports, eight by ten inch black
43 and white photographs or eight by ten inch color photographs of traffic
44 accident scenes.

1 L. Except as provided in subsection O of this section, each agency
2 authorized by this section may charge a fee, in addition to any other fees
3 prescribed by law, in an amount necessary to cover the cost of state and
4 federal noncriminal justice fingerprint processing for criminal history
5 record information checks that are authorized by law for noncriminal justice
6 employment, licensing or other lawful purposes.

7 M. A fingerprint account within the records processing fund is
8 established for the purpose of separately accounting for the collection and
9 payment of fees for noncriminal justice fingerprint processing by the
10 department. Monies collected for this purpose shall be credited to the
11 account, and payments by the department to the United States for federal
12 noncriminal justice fingerprint processing shall be charged against the
13 account. Monies in the account not required for payment to the United States
14 shall be used by the department in support of the department's noncriminal
15 justice fingerprint processing duties. At the end of each fiscal year, any
16 balance in the account not required for payment to the United States or to
17 support the department's noncriminal justice fingerprint processing duties
18 reverts to the state general fund.

19 N. A records processing fund is established for the purpose of
20 separately accounting for the collection and payment of fees for department
21 reports and photographs of traffic accident scenes processed by the
22 department. Monies collected for this purpose shall be credited to the fund
23 and shall be used by the department in support of functions related to
24 providing copies of department reports and photographs. At the end of each
25 fiscal year, any balance in the fund not required for support of the
26 functions related to providing copies of department reports and photographs
27 reverts to the state general fund.

28 O. The department of economic security may pay from appropriated
29 monies the cost of federal fingerprint processing or federal criminal history
30 record information checks that are authorized by law for employees and
31 volunteers of the department, guardians pursuant to section 46-134,
32 subsection A, paragraph 15, the licensing of foster parents or the
33 certification of adoptive parents.

34 P. The director shall adopt rules that provide for:

35 1. The collection and disposition of fees pursuant to this section.

36 2. The refusal of service to those agencies that are delinquent in
37 paying these fees.

38 Q. The director shall ensure that the following limitations are
39 observed regarding dissemination of criminal justice information obtained
40 from the central state repository or through the Arizona criminal justice
41 information system:

42 1. Any criminal justice agency that obtains criminal justice
43 information from the central state repository or through the Arizona criminal
44 justice information system assumes responsibility for the security of the
45 information and shall not secondarily disseminate this information to any

1 individual or agency not authorized to receive this information directly from
2 the central state repository or originating agency.

3 2. Dissemination to an authorized agency or individual may be
4 accomplished by a criminal justice agency only if the dissemination is for
5 criminal justice purposes in connection with the prescribed duties of the
6 agency and not in violation of this section.

7 3. Criminal history record information disseminated to noncriminal
8 justice agencies or to individuals shall be used only for the purposes for
9 which it was given. Secondary dissemination is prohibited unless otherwise
10 authorized by law.

11 4. The existence or nonexistence of criminal history record
12 information shall not be confirmed to any individual or agency not authorized
13 to receive the information itself.

14 5. Criminal history record information to be released for noncriminal
15 justice purposes to agencies of other states shall only be released to the
16 central state repositories of those states for dissemination in accordance
17 with the laws of those states.

18 6. Criminal history record information shall be released to
19 noncriminal justice agencies of the federal government pursuant to the terms
20 of the federal security clearance information act (P.L. 99-169).

21 R. This section and the rules adopted under this section apply to all
22 agencies and individuals collecting, storing or disseminating criminal
23 justice information processed by manual or automated operations if the
24 collection, storage or dissemination is funded in whole or in part with
25 monies made available by the law enforcement assistance administration after
26 July 1, 1973, pursuant to title I of the crime control act of 1973, and to
27 all agencies that interact with or receive criminal justice information from
28 or through the central state repository and through the Arizona criminal
29 justice information system.

30 S. This section does not apply to criminal history record information
31 contained in:

32 1. Posters, arrest warrants, announcements or lists for identifying or
33 apprehending fugitives or wanted persons.

34 2. Original records of entry such as police blotters maintained by
35 criminal justice agencies, compiled chronologically and required by law or
36 long-standing custom to be made public if these records are organized on a
37 chronological basis.

38 3. Transcripts or records of judicial proceedings if released by a
39 court or legislative or administrative proceedings.

40 4. Announcements of executive clemency or pardon.

41 5. Computer databases, other than the Arizona criminal justice
42 information system, that are specifically designed for community notification
43 of an offender's presence in the community pursuant to section 13-3825 or for
44 public informational purposes authorized by section 13-3827.

T. Nothing in this section prevents a criminal justice agency from disclosing to the public criminal history record information that is reasonably contemporaneous to the event for which an individual is currently within the criminal justice system, including information noted on traffic accident reports concerning citations, blood alcohol tests, intoxilyzer tests or arrests made in connection with the traffic accident being investigated.

U. In order to ensure that complete and accurate criminal history record information is maintained and disseminated by the central state repository:

1. The arresting authority shall take legible fingerprints of all persons arrested for offenses specified in subsection C of this section and, within ten days of the arrest, the arresting authority shall forward the fingerprints to the department in the manner or form required by the department. On the issuance and service of a summons for a defendant who is charged with a felony offense, a violation of title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as defined in section 13-3601, the court shall order that the defendant be fingerprinted by the appropriate law enforcement agency and that the defendant appear at a designated time and place for fingerprinting. At the initial appearance or on the arraignment of a summoned defendant who is charged with a felony offense, a violation of title 13, chapter 14 or title 28, chapter 4 or a domestic violence offense as defined in section 13-3601, the court shall order that the defendant be fingerprinted at a designated time and place by the appropriate law enforcement agency if the court has reasonable cause to believe that the defendant was not previously fingerprinted.

2. BEGINNING JANUARY 1, 2007, THE ARRESTING AUTHORITY SHALL REQUIRE ALL PERSONS WHO ARE CHARGED WITH ANY FELONY OFFENSE TO SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING. BEGINNING JANUARY 1, 2008, THE ARRESTING AUTHORITY SHALL REQUIRE ALL PERSONS WHO ARE ARRESTED TO SUBMIT TO DEOXYRIBONUCLEIC ACID TESTING. WITHIN NINETY DAYS AFTER TESTING, THE ARRESTING AUTHORITY SHALL FORWARD THE DEOXYRIBONUCLEIC ACID TEST RESULTS TO THE DEPARTMENT IN THE MANNER OR FORM REQUIRED BY THE DEPARTMENT.

~~2.~~ 3. In every criminal case in which the defendant is incarcerated or fingerprinted as a result of the charge, an originating law enforcement agency or prosecutor, within forty days of the disposition, shall advise the central state repository of all dispositions concerning the termination of criminal proceedings against an individual arrested for an offense specified in subsection C of this section. This information shall be submitted on a form or in a manner required by the department.

~~3.~~ 4. Dispositions resulting from formal proceedings in a court having jurisdiction in a criminal action against an individual who is arrested for an offense specified in subsection C of this section or section 8-341, subsection R shall be reported to the central state repository within forty days of the date of the disposition. This information shall be

submitted on a form or in a manner specified by rules approved by the supreme court.

~~4.~~ 5. The state department of corrections or the department of juvenile corrections, within forty days, shall advise the central state repository that it has assumed supervision of a person convicted of an offense specified in subsection C of this section or section 8-341, subsection R. The state department of corrections or the department of juvenile corrections shall also report dispositions that occur thereafter to the central state repository within forty days of the date of the dispositions. This information shall be submitted on a form or in a manner required by the department of public safety.

~~5.~~ 6. Each criminal justice agency shall query the central state repository before dissemination of any criminal history record information to ensure the completeness of the information. Inquiries shall be made before any dissemination except in those cases in which time is of the essence and the repository is technically incapable of responding within the necessary time period. If time is of the essence, the inquiry shall still be made and the response shall be provided as soon as possible.

V. The director shall adopt rules specifying that any agency that collects, stores or disseminates criminal justice information that is subject to this section shall establish effective security measures to protect the information from unauthorized access, disclosure, modification or dissemination. The rules shall include reasonable safeguards to protect the affected information systems from fire, flood, wind, theft, sabotage or other natural or man-made hazards or disasters.

W. The department shall make available to agencies that contribute to, or receive criminal justice information from, the central state repository or through the Arizona criminal justice information system a continuing training program in the proper methods for collecting, storing and disseminating information in compliance with this section.

X. Nothing in this section creates a cause of action or a right to bring an action including an action based on discrimination due to sexual orientation.

Y. For THE purposes of this section:

1. "Administration of criminal justice" means performance of the detection, apprehension, detention, pretrial release, ~~post-trial~~ POSTTRIAL release, prosecution, adjudication, correctional supervision or rehabilitation of criminal offenders. Administration of criminal justice includes enforcement of criminal traffic offenses and civil traffic violations, including parking violations, when performed by a criminal justice agency. Administration of criminal justice also includes criminal identification activities and the collection, storage and dissemination of criminal history record information.

2. "Administrative records" means records that contain adequate and proper documentation of the organization, functions, policies, decisions,

1 procedures and essential transactions of the agency and that are designed to
2 furnish information to protect the rights of this state and of persons
3 directly affected by the agency's activities.

4 3. "Arizona criminal justice information system" or "system" means the
5 statewide information system managed by the director for the collection,
6 processing, preservation, dissemination and exchange of criminal justice
7 information and includes the electronic equipment, facilities, procedures and
8 agreements necessary to exchange this information.

9 4. "Central state repository" means the central location within the
10 department for the collection, storage and dissemination of Arizona criminal
11 history records and related criminal justice information.

12 5. "Criminal history record information" and "criminal history record"
13 means information that is collected by criminal justice agencies on
14 individuals and that consists of identifiable descriptions and notations of
15 arrests, detentions, indictments and other formal criminal charges, and any
16 disposition arising from those actions, sentencing, formal correctional
17 supervisory action and release. Criminal history record information and
18 criminal history record do not include identification information to the
19 extent that the information does not indicate involvement of the individual
20 in the criminal justice system or information relating to juveniles unless
21 they have been adjudicated as adults.

22 6. "Criminal justice agency" means either:

23 (a) A court at any governmental level with criminal or equivalent
24 jurisdiction, including courts of any foreign sovereignty duly recognized by
25 the federal government.

26 (b) A government agency or subunit of a government agency that is
27 specifically authorized to perform as its principal function the
28 administration of criminal justice pursuant to a statute, ordinance or
29 executive order and that allocates more than fifty per cent of its annual
30 budget to the administration of criminal justice. This subdivision includes
31 agencies of any foreign sovereignty duly recognized by the federal
32 government.

33 7. "Criminal justice information" means information that is collected
34 by criminal justice agencies and that is needed for the performance of their
35 legally authorized and required functions, such as criminal history record
36 information, citation information, stolen property information, traffic
37 accident reports and wanted persons information. Criminal justice
38 information does not include the administrative records of a criminal justice
39 agency.

40 8. "Disposition" means information disclosing that a decision has been
41 made not to bring criminal charges or that criminal proceedings have been
42 concluded or information relating to sentencing, correctional supervision,
43 release from correctional supervision, the outcome of an appellate review of
44 criminal proceedings or executive clemency.

1 9. "Dissemination" means the written, oral or electronic communication
2 or transfer of criminal justice information to individuals and agencies other
3 than the criminal justice agency that maintains the information.
4 Dissemination includes the act of confirming the existence or nonexistence of
5 criminal justice information.

6 10. "Management control":

7 (a) Means the authority to set and enforce:

8 (i) Priorities regarding development and operation of criminal justice
9 information systems and programs.

10 (ii) Standards for the selection, supervision and termination of
11 personnel involved in the development of criminal justice information systems
12 and programs and in the collection, maintenance, analysis and dissemination
13 of criminal justice information.

14 (iii) Policies governing the operation of computers, circuits and
15 telecommunications terminals used to process criminal justice information to
16 the extent that the equipment is used to process, store or transmit criminal
17 justice information.

18 (b) Includes the supervision of equipment, systems design, programming
19 and operating procedures necessary for the development and implementation of
20 automated criminal justice information systems.

21 11. "Process control number" means the Arizona automated fingerprint
22 identification system number that attaches to each arrest event at the time
23 of fingerprinting and that is assigned to the arrest fingerprint card,
24 disposition form and other pertinent documents.

25 12. "Secondary dissemination" means the dissemination of criminal
26 justice information from an individual or agency that originally obtained the
27 information from the central state repository or through the Arizona criminal
28 justice information system to another individual or agency.

29 13. "Sexual orientation" means consensual homosexuality or
30 heterosexuality.

31 14. "Subject of record" means the person who is the primary subject of
32 a criminal justice record.